

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 JUAN RIVERA,

4 Petitioner,

5 v.

6 BRIAN WILLIAMS, et al.,

7 Respondents.

Case No.: 2:19-cv-00288-APG-BNW

ORDER

[ECF No. 3]

8 This is a *pro se* habeas petition filed under 28 U.S.C. § 2254. I review the petition under
9 Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and for
10 consideration of petitioner Juan Rivera's application for leave to proceed *in forma pauperis*
11 (ECF No. 1) and motion for appointment of counsel (ECF No. 3).

12 Rivera is not able to pay the filing fee so the application for leave to proceed *in forma*
13 *pauperis* will be granted.

14 Rivera's motion for appointment of counsel furthers the interests of justice given, among
15 other things, Rivera's sentence of life without the possibility of parole, his age, and his English
16 language limitations. Rivera's motion for appointment of counsel will therefore be granted and
17 counsel will be appointed to represent him in this case.

18 IT THEREFORE IS ORDERED that the petitioner's application to proceed *in forma*
19 *pauperis* (**ECF No. 1**) is **GRANTED**. The petitioner will not be required to pay the filing fee.

20 IT IS FURTHER ORDERED that the petitioner's motion for appointment of counsel (**ECF**
21 **No. 3**) is **GRANTED**.

22 IT FURTHER IS ORDERED that the Federal Public Defender shall be provisionally
23 appointed as counsel and shall have 30 days to undertake direct representation of the petitioner or

1 to indicate the office's inability to represent him in these proceedings. If the Federal Public
2 Defender is unable to represent the petitioner, the court will appoint alternate counsel. The counsel
3 appointed will represent the petitioner in all federal proceedings related to this matter, including
4 any appeals or certiorari proceedings, unless allowed to withdraw. A deadline for the filing of an
5 amended petition and/or seeking other relief will be set after counsel has entered an appearance. I
6 anticipate setting the deadline for approximately 90 days from entry of the formal order of
7 appointment. Any deadline established and/or any extension thereof will not signify any implied
8 finding of a basis for tolling during the time period established. The petitioner at all times remains
9 responsible for calculating the running of the federal limitation period and timely presenting
10 claims. That is, I make no finding or representation that the petition, any amendments thereto, or
11 any claims contained therein are not subject to dismissal as untimely. *See Sossa v. Diaz*, 729 F.3d
12 1225, 1235 (9th Cir. 2013).

13 IT FURTHER IS ORDERED, so that the respondents may be electronically served with
14 any papers filed through counsel, that the Clerk shall (1) add state attorney general Aaron D. Ford
15 as counsel for the respondents, and (2) make informal electronic service of this order upon the
16 respondents by directing a notice of electronic filing to him. The respondents' counsel shall enter
17 a notice of appearance within 21 days of entry of this order, but no further response shall be
18 required from the respondents until further order of the court.

19 The Clerk accordingly shall send a copy of this order to the *pro se* petitioner, the Nevada
20 Attorney General, the Federal Public Defender, and the CJA Coordinator for this division.

21 Dated: May 30, 2019.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE